



VILLAGE OF

a great place to live, work, and play

BARRINGTON

September 9, 2013

The Honorable Jeff Denham
Chairman
House Subcommittee on Railroads, Pipelines,
and Hazardous Materials
B-376 Rayburn House Office Building
Washington, DC 20515

The Honorable Corrine Brown
Ranking Member
House Subcommittee on Railroads,
Pipelines and Hazardous Materials
592 Ford House Office Building
Washington, DC 20515

Dear Chairman Denham and Ranking Member Brown;

This letter is written in support of Representative Mike Michaud's request to the Subcommittee seeking a fact-finding hearing on rail safety and liability matters, with a particular focus on the transport of hazardous materials, in particular, ethanol and crude oil. I am a co-chair of the TRAC Coalition, a bipartisan ad hoc coalition of local governments in the suburban Chicagoland area that was created in 2008 to represent local community interests in a rail merger review proceeding that was before the Surface Transportation Board.

The recent tragic derailment in Lac-Mégantic, Quebec was a chilling reminder on both sides of the border that the exponential increase in transport of flammable and explosive hazmat, namely ethanol and crude oil, in unit trains is increasing the risk of catastrophic accidents. We certainly understand that no company, industry or unit of government can guarantee the public safety 100% of the time, however, the current regulatory framework surrounding the transport of this dangerous hazmat is inadequate for meeting the challenging reality that unit trains of these commodities have become rolling hazmat pipelines.

The rail shipment of crude oil and ethanol has increased exponentially since 2008. But as the National Transportation Safety Board has observed since 1991, neither industry standards nor federal safety regulations governing the DOT -111 tank cars used primarily to transport hazardous materials such as crude oil and ethanol have adequately reflected the potential threat to public safety that the use of those tank cars poses. As a result, five-year shipment data for crude oil and ethanol CLEARLY indicates an ever-increasing risk for a catastrophic accident with the capacity to put communities across the nation at risk for the type of tragic events that unfolded in Quebec Province this summer following the derailment and rupture of multiple DOT-111 tank cars that resulted in catastrophic explosions.

Because local and state governments are precluded from enacting any community-specific protections, we are wholly dependent upon the rail industry and the federal government to be the first line of defense in preventing a rail tragedy. On September 6, 2013, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published its Advance Notice of Proposed Rulemaking to consider whether to improve the regulations applicable to the transportation of hazardous materials by rail. A Petition for Rulemaking filed by the Village of Barrington and TRAC is being considered along with other petitions filed by the railroad and other industries. Unlike the rail industry and its supporting industries, Barrington and TRAC, based on the

VILLAGE HALL
200 S. HOUGH ST.
BARRINGTON, IL 60010
(847) 304-3400

PRESIDENT & BOARD
MANAGER'S OFFICE
TEL (847) 304-3444
FAX (847) 304-3490

COMMUNITY AND
FINANCIAL SERVICES
TEL (847) 304-3400
FAX (847) 381-7506

DEVELOPMENT SERVICES
TEL (847) 304-3460
FAX (847) 381-1056

PUBLIC WORKS
300 N. RAYMOND AVE.
BARRINGTON, IL 60010
TEL (847) 381-7903
FAX (847) 382-3030

PUBLIC SAFETY
400 N. NORTHWEST HWY.
BARRINGTON, IL 60010

POLICE
TEL (847) 304-3300
FAX (847) 381-2165

FIRE
TEL (847) 304-3600
FAX (847) 381-1889

NTSB's repeated recommendation, are asking PHMSA to require the retrofitting of DOT-111 tank cars used to transport hazardous products, such as ethanol and crude oil. As Paul Stancil, NTSB's tank car expert, testified during the NTSB public hearing following a derailment in Cherry Valley, Illinois that resulted in the fatal release of ethanol from several breached DOT 111 tank cars, a retrofit of existing tank cars is necessary because co-mingling cars "does nothing to improve the safety in an accident.... It doesn't make sense not to do something with the existing fleet."

It is Barrington and TRAC's hope that this Subcommittee will carefully follow the Proposed Rulemaking and will encourage PHMSA to give expedited consideration to the necessity of mandating a DOT-111 retrofit program to ensure that the existing fleet of defective "weak link" cars are not allowed to remain in use for the transportation of flammable and/or explosive hazardous materials, such as crude oil and ethanol for another three-plus decades.

We would also ask the Subcommittee, in light of the projected astronomical costs of the clean-up of the Lac-Megantic derailment, to consider the September 2010 report prepared by U.S. Department of Transportation entitled The Transportation of Hazardous Materials: Insurance, Security, and Safety Costs. As the mayors of a relatively small Illinois village and Illinois' second largest city, the TRAC co-chairs share a deep concern as to how clean-up costs, medical expenses, other personal injury damages or wrongful death claims for community residents will be paid if and when a worst-case scenario accident were to occur in the United States.

We believe that the DOT report raises these issues and points to the need to resolve the issue of what is to be done if a railroad is forced into bankruptcy and its liability insurance is inadequate to cover the cost of all remediation and civil liability costs caused by a serious hazmat release of crude, ethanol, denatured alcohol, and ethanol/gasoline mixtures. Because States and local communities have absolutely no say over railroad activities that result in highly dangerous commodities passing through them, they cannot be expected to bear the brunt of catastrophic incidents that are the result of the railroads' activities, especially if the insurance industry were to take the position that it cannot cover industry claims caused by the continued use of defective tank cars despite full awareness of their deficiencies. Therefore, we urge the Subcommittee to begin a review as to how best to address the matter of future liability coverage.

Sincerely,



Karen Darch
President, Village of Barrington, IL
& TRAC Co-Chair

Attachments:

April 3, 2012 Barrington/TRAC Petition to PHMSA

August 28, 2013 Barrington/TRAC Written and Oral Comments at PHMSA/FRA Public Meeting

cc:

Senator Richard Durbin
Representative Peter Roskam
Representative Tammy Duckworth
Representative Bill Foster
Representative Adam Kinzinger
Representative Peter Visclosky

Senator Mark Kirk
Representative Daniel Lipinski
Representative Bradley Schneider
Representative Randy Hultgren
Representative Cheri Bustos
Representative Mike Michaud